

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Enhance
the Role of Demand Response in Meeting
the State's Resource Planning Needs and
Operational Requirements.

R.13-09-011
(Filed September 19, 2013)

**REPLY COMMENTS OF OHMCONNECT, INC. PURSUANT TO ADMINISTRATIVE
LAW JUDGE'S RULING REQUESTING RESPONSES TO ADDITIONAL QUESTIONS
IN REGARD TO 2018 AND BEYOND DEMAND RESPONSE PROGRAMS**

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I. INTRODUCTION

OhmConnect, Inc. (OhmConnect) respectfully submits these Reply Comments pursuant to Administrative Law Judge (ALJ) Hymes's May 20, 2016 Ruling and July 11, 2016 Email Ruling in the above-captioned proceeding.¹ OhmConnect primarily wishes to address two themes apparent from the parties' July 1, 2016 Opening Comments:

1. There is broad support among the parties for a competitive Demand Response (DR) procurement program – e.g. an expanded Demand Response Auction Mechanism (DRAM) – in which both third-party and utility DR supply resources participate; and
2. Many parties believe there exist competitive asymmetries between third-party and utility DR that need to be remedied as the DRAM is transitioned from pilot to program.

OhmConnect also addresses certain DRAM design details raised in parties' Opening Comments for the case where the DRAM is transitioned from a pilot to a program.

II. DISCUSSION

A. Support for transitioning the DRAM from pilot to program.

The parties' Opening Comments reflect broad consensus that a competitive auction is the preferred procurement mechanism for Resource Adequacy (RA) capacity from DR supply resources, and that the DRAM (or something similar) should soon be made a full program.

¹ See May 20, 2016 *Administrative Law Judge's Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs* and July 11, 2016 *Email Ruling Extending Deadline for Reply Comments*.

PG&E offers that it “is supportive of continuing DRAM-like auctions as a mechanism for future DR procurement”;² ORA “supports transitioning [the] current DRAM pilot into a primary procurement mechanism for Supply DR beginning 2018”;³ TURN states that, “at least in the residential market, the best path forward [...] is through a procurement program such as the DRAM”;⁴ and EDF advocates for “the need to transition the [DRAM] from a pilot into a full-fledged program”.⁵ OhmConnect appreciates the concerns raised by some parties regarding the need for evaluation of the DRAM pilot, especially before drawing firm conclusions on the program design of a larger-scale DRAM.⁶ We believe these concerns speak to the need for a complete 2017 DRAM pilot, with procurement of capacity up to either the customer registration limits authorized by CPUC Decision 16-06-008 or the budgets authorized by CPUC Decision 14-12-024 and CPUC Resolution E-4754. A 2017 DRAM pilot completed in full accordance with the rules specified in Resolution E-4754 will provide the Commission and other stakeholders with the rich dataset necessary to inform and optimize the design of a future DRAM program.

The parties’ Opening Comments also indicate support for direct competition between third parties and utilities in the market for RA capacity from DR supply resources. SDG&E, for example, believes that “Commission policy should make it possible for the utilities to compete with third parties in competitive solicitations to run supply side demand response programs, through RFO or other avenues”.⁷ OhmConnect strongly supports establishing a single competitive market, and, to this end, we concur with the Clean Coalition’s recommendation that the Commission “pursue creation of a single market in which all values are recognized and through which all available resources can be dispatched to the optimal resource portfolio without conflict between dispatching agencies and contractual commitments”.⁸ ORA, CESA, and Nest

² See July 1, 2016 *Pacific Gas and Electric Company’s (U-39M) Responses to Questions in Administrative Law Judge Hymes’ May 20, 2016 Ruling*, at p. 29.

³ See July 1, 2016 *Comments of the Office of Ratepayer Advocates*, at p. 7.

⁴ See July 1, 2016 *Responses of The Utility Reform Network to Questions Concerning Demand Response in 2018 and Beyond*, at p. 17.

⁵ See July 1, 2016 *Comments of Environmental Defense Fund on Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 1.

⁶ In their respective July 1, 2016 Opening Comments, SCE states “it is unknown what the DRAM supply curve looks like – and whether the current DRAM Pilot offers are indicative of costs associated with a larger scale program” (page 17), while SDG&E argues “it is too early to tell [whether the DRAM should be transitioned from pilot to program] with no concrete results to date” (page 23).

⁷ See July 1, 2016 *Comments of San Diego Gas and Electric Company (U902E) on 2018 Demand Response Programs*, at p. 43.

⁸ See July 1, 2016 *Clean Coalition Response to Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 3.

also cite the benefits of competition from a single market: ORA argues that “competitive procurement will improve price discovery and reduce costs to ratepayers”;⁹ CESA states that “through competition with the IOUs and with third parties, innovations are likely to arise from providing the greatest value to customers”;¹⁰ and Nest contends “there should be a full and free competition between [third-party and utility DR supply resources]”.¹¹

B. Eliminating competitive asymmetries between third-party and utility DR.

The parties’ Opening Comments indicate that certain asymmetries between the utilities and third-party DR providers need to be remedied in order to ensure a well-functioning competitive market for RA (and other products) from DR supply resources. The Joint DR Parties believe “the role of the IOU relative to third-party DRPs should be examined as there are several inherent advantages that an IOU enjoys relative to third-parties”.¹² TURN states that it “is concerned about potential conflicts due to the dual role of the IOU as an aggregator of customers for its tariffed programs, while at the same time the IOU selects the bids of aggregators participating in the DRAM auction”.¹³ ORA observes that the current utility DR programs “are not procured competitively, [and do] not ensure that more efficient DR providers and DR programs are given a priority to minimize utility ratepayer costs”.¹⁴ Finally, EDF notes that “the [IOUs] have access to customer energy use data (and other customer demographic information) that creates an inherent advantage over third-party DR providers”.¹⁵

One remedy to these asymmetries, proposed by several parties in their Opening Comments, is to place competitive procurement of RA capacity from *all* DR supply resources (both third-party and utility) under the control of an independent entity. This would resolve the conflict of interest inherent to the utilities’ dual roles as administrators of and participants in a competitive procurement mechanism like the DRAM. Indeed, OhmConnect argues in its Opening Comments

⁹ ORA Opening Comments, at p. 2.

¹⁰ See July 1, 2016 *Comments of the California Energy Storage Alliance on Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 11.

¹¹ See July 1, 2016 *Comments of Nest Labs, Inc. on Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at, p. 3.

¹² See July 1, 2016 *Comments of Comverge, Inc., CPower, EnerNOC, Inc., and EnergyHub (“Joint DR Parties”) on Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 2.

¹³ TURN Opening Comments, at p. 8.

¹⁴ ORA Opening Comments, at p. 12.

¹⁵ EDF Opening Comments, at p. 3.

that, because the utilities are presently the largest buyers and sellers of DR products, it is unreasonable that they should be allowed to administer a DRAM program in which their own DR supply resources will compete.¹⁶ EDF expresses a similar sentiment, stating that an “objective entity would be the appropriate, objective arbiter of DRAM”.¹⁷ The Joint DR Parties further note that “a centrally administered clearing price market, administered by a third party, for the DRAM could contribute further to transparency and fairness, while ensuring the most efficient price and helping to encourage the significant investments of third parties required to grow the market”.¹⁸

C. Additional DRAM program design details.

As DRAM transitions from pilot to program, OhmConnect supports two additional modifications to the DRAM design recommended in the parties’ Opening Comments. First, OhmConnect supports the inclusion of multi-year contracts in future DRAM auctions. We note that all three utilities support longer contracts as a means of promoting competition and market certainty.¹⁹ Non-utility parties express similar sentiments: CESA remarks that, “as one-year programs, customers face higher costs to participate in the DRAM than if the DRAM were a multi-year program that allowed third parties to offer customers longer-term contracts”;²⁰ the Joint DR Parties assert that “moving toward a more stable environment will permit longer-term (3-5 year) planning”;²¹ and AMS maintains that “short-term contracts are insufficient for incentivizing investment needed for advanced DR to participate in the DRAM”.²²

Second, OhmConnect supports elimination of artificial limits on capacity procurement via DRAM. We agree with ORA that “the Commission should not impose any MW limitation as long as the procurement is measured against the cost of well-accepted benchmark(s) for the

¹⁶ See *Response of OhmConnect, Inc. to Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 6.

¹⁷ EDF comments, at p. 6.

¹⁸ Joint DR Parties Opening Comments, at p. 30.

¹⁹ In their respective Opening Comments, PG&E states “a term longer than one year would [...] result in more competitive prices due to economies of scale” (page 32), SCE states “the Commission should allow longer contract terms to provide Sellers and participating customers additional certainty, which should encourage higher participation, while driving the costs down” (page 16), and SDG&E states “[DRAM] offerors / providers should have the latitude to offer various contract lengths in order to enable the most economic program possible” (page 36).

²⁰ See July 1, 2016 *Comments of the California Energy Storage Alliance on Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 16.

²¹ Joint DR Parties Opening Comments, at p. 2.

²² See July 1, 2016 *Advanced Microgrid Solutions’s Comments on the Administrative Law Judge’s Ruling Requesting Responses to Additional Questions in Regard to 2018 and Beyond Demand Response Programs*, at p. 11.

product(s) procured”.²³ Likewise, we agree with AMS and the Joint DR Parties, respectively, that “the size of the DRAM program should be based on the products and/or attributes that the Commission wishes to incentivize, not on an arbitrary MW, budget or other limitation”,²⁴ and that “the amount of DR procured should be based on the demand of customers to participate in the program and not an artificial cap”.²⁵

III. CONCLUSION

OhmConnect appreciates the opportunity to provide these Reply Comments, and commends the Commission for its continued efforts to develop a record to help guide DR activities for 2018 and beyond. OhmConnect firmly believes that the path forward for DR in California is transparent, fair, and competitive procurement of DR in a single market open to both third parties and the utilities. The parties’ comments in response to the May 20, 2016 ALJ Ruling indicate strong stakeholder support for transitioning the DRAM from pilot to program and for eliminating asymmetries between third parties and the utilities that may stifle competition in the DR market. The DRAM pilots will provide essential data to inform certain design and implementation details for a larger-scale DRAM program; however, there is broad stakeholder agreement that now is the time to start scoping the core components of a DRAM program for 2018 and beyond.

Respectfully submitted,

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²³ ORA Opening Comments, at p. 9.

²⁴ AMS Opening Comments, at p. 11.

²⁵ Joint DR Parties Opening Comments, at p. 26.